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OBSTRUCTION, GERMANENESS AND REPRESENTATIVENESS
IN LEGISLATURES

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ABSTRACT

Obstruction has often been regarded as an abhorrent feature of American legislatures, but few attempts have been made to specify the conditions under which it occurs or the precise nature and degree of its putative evil. This paper presents a theory of decentralized decisionmaking that specifies the necessary and sufficient conditions for sophisticated obstruction by committees. The assumptions of the theory are embedded in a simulation model which generates preferences and status quo points, identifies outcomes under competing behavioral assumptions, and estimates the representativeness of outcomes as a function of legislators' ideal points. The results call for rejection of the hypothesis that obstruction leads to unrepresentative outcomes. A discussion of the House's discharge petition examines the findings in a richer congressional context.

Obstruction is a frequently criticized fact of congressional life, but more often than not the Senate's rule for extended debate is the target of such criticism, as well as the focus of scholarly works on legislative rules and strategies. Studies of Senate filibusters have spanned several decades and include works by Burdette (1940), Galloway (1958), Schuman (1957), Rosenthal (1962), Keynes (1969), Wolfinger (1971) and Foley (1980). Yet during each session of Congress, hundreds of bills die less conspicuously than those relatively few victims of the filibuster. Every stage in the legislative process is a potential veto point. Thus in the House, for example, some bills are deliberately held up by leaders who are reluctant to schedule legislation for floor consideration, and other bills are permanently stalled in the Rules Committee (Robinson, 1963; Oppenheimer, 1981). Even legislation successful enough to receive consideration on the floor is often amended to such a degree that it "sinks of its own weight" (Oleszek, 1978, p. 116). And if the typically open amendment procedure is not fatal and bills pass both Houses, then there still remains the possibility of obstruction in conference committee if conferees are unable (or unwilling) to reach agreement.

Given that so many bills die in each session of Congress, how bad is the obstruction that is so often responsible? This paper addresses that question with several departures from previous studies of

congressional rules and strategies. First, the focus is on the House rather than the Senate, and more specifically on obstruction by standing committees. Second, the study is primarily theoretical rather than empirical, and thus attempts to abstract from Congress only those elements of decentralized (two-stage) decisionmaking needed to expose the necessary and sufficient conditions for rational, obstructive committee behavior. Third, "bad outcomes" are given a precise, normatively based meaning by defining representativeness in terms of the elements of the theory. And finally, a simulation technique is devised and employed in order to estimate the effects of committee obstruction on the representativeness of legislative outcomes. Rather than argue that the uniqueness of this approach is a substitute for more conventional empirical analyses, I merely suggest that it is a supplement that offers some useful preliminary insights about institutional design, political strategy, and the quality of collective choice.

INGREDIENTS OF THE THEORY

Hundreds of rules impose order on the legislative process. In this paper no more than a few such rules will be discussed, since the objective is to extract from Congress only its most essential features. The theory builds on abstract definitions of a committee system, a jurisdictional system, and a germaneness rule for offering amendments. These key institutional ingredients are presented first, after which assumptions about preferences and strategies of

legislators are discussed.¹

Institutional ingredients. Congress is structurally decentralized; its decisions are made in two or more distinct stages by different (sub)sets of members. Decisions often originate in subcommittees, always pass through committees, and only sometimes reach the floor for consideration by the full membership. Accordingly, committees are central to the proposed theory. The initial assumption is that Congress consists of a finite set of individuals.² A congressional committee is a proper subset of the entire membership of the parent body, therefore a committee system can be viewed as a mechanism that assigns members to committees, each of which contains some, but not all, members. Among other reasons, the committee system divides the membership so that initial decisions, such as the drafting of bills, can be made more efficiently, perhaps by members who over the years have developed expertise in the jurisdiction of the committee.

In the abstract, a jurisdictional system assigns policy domains to committees, just as the committee system assigns members to committees. Policy domains are subjects about which Congress makes decisions. Thus, for example, in one jurisdiction a subset of actors (committee) is given the right to write bills declaring how much to tax; in another jurisdiction, a different subset formulates initial proposals defining limits to imports, and so on.

A special form of committee-jurisdictional arrangement in which the jurisdictions of committees are unidimensional and nonoverlapping

is called a simple institutional arrangement, or SIA. Practically speaking, the unidimensionality of SIAs guarantees that the policy domain of each committee is narrowly defined, while the nonoverlapping jurisdiction requirement ensures that committees cannot confront one another about proposals in the same policy domain. Thus, for example, if a given committee has jurisdiction over a education, it possesses the exclusive right to report to the floor bills pertaining to education. It effectively has a monopoly over the first stage of decisionmaking on education. Reasons for focusing on SIAs are not limited to matters of convenience. First, the theory is an appropriate depiction of at least some congressional decisionmaking. Not all committees and jurisdictions in Congress are so neatly constructed, but many of them approximate SIAs in many instances. To that degree, the results that follow, though abstract, pertain to Congress. A second reason for considering decisionmaking only in SIAs is a desire to minimize the number of assumptions in the theory. Although the theory could incorporate more detailed rules and procedures of congressional decisionmaking, the advantage of starting simple is the ease with which effects can be attributed to causes.

The final institutional ingredient in the theory is the rule that governs the offering of amendments by noncommittee members to bills reported by committees. In the House of Representatives, such rules are written for legislation by the Rules Committee and voted on by the full House before debate on legislation commences. Although such rules are often complex (Bach, 1981a; 1981b), there are but two pure

types -- open and closed. Under the pure open rule, any member may offer any amendment; under the pure closed rule, no member may offer an amendment of any kind. The focus here is on the House's most common variant of the open rule, which allows amendments to be offered, provided they are germane to the legislation under consideration.³ In the context of SIAs and the House's germaneness restriction, the open rule permits any member to offer any amendment to a piece of legislation referred by a committee, so long as the amendment changes policy only in the designated jurisdiction of that committee.

Preferences. Each member of the legislature is assumed to have single-peaked and symmetric preferences in every jurisdiction. Furthermore, there exists on each jurisdiction a status quo point which represents the policy at the start of the session. Figure 1 is an illustration of a configuration of preferences and a status quo point on a unidimensional jurisdiction, x . For the sake of simplicity, only five members' preferences are shown. Solid dots denote most-preferred (or ideal) alternatives for given committee members. By assumption, these three members have exclusive power to select initial proposals (bills). Hollow dots are ideal points of members not on the committee. The horizontal axis represents the set of alternatives from which a given committee can choose, and the vertical axis reflects the degree to which members value the alternatives. Notice, of course, that points directly below the peak of any given curve are ideal points. Moreover, for any given

individual, the farther an alternative is from his ideal point, the less he values the alternative. Thus, all preference curves are single-peaked. Finally, the diamond above the "S" denotes the status quo.

Strategies. Given the institutional setting in which actors make decisions, how do actors express their preferences thereby producing a collective decision? This question requires a final, contrasting pair of assumptions about the strategies of individuals. The most common and readily available assumption about individual decisions is that of sincere voting.⁴ In a majority rule, plurality voting setting, such as Congress, a voter votes sincerely if, when given a set of two or more alternatives, he always casts his vote for the alternative he prefers most. Under the assumption of sincere voting, the outcomes in each of the two stages of voting based on the configuration of preferences in Figure 1 is easily predicted. In the committee stage any number of amendments can be offered. But one and only one is assured of beating all others, namely, the point CM, which is the ideal point of the committee's median voter. Many readers will recognize this as an application of Black's Theorem (1958). After the committee reports CM to the floor as its bill, a virtually identical process takes place. Under the germaneness rule, amendments along this dimension are offered freely and openly. But if one such amendment is the point FM -- the floor median voter's ideal point -- that amendment cannot be defeated. Thus the second-stage and final outcome under sincere voting, O_{sv} , is always the point, FM.

How realistic is the assumption of sincere voting in the given institutional setting? Two possible objections quickly come to mind, one for each of the stages of decisionmaking. First, will FM come up on the floor? According to the germaneness rule, it may come up. Furthermore, unless the floor median voter is ignorant, lazy, or both, it will come up. There are few moderates in Congress who, having been elected, are not aware of the natural vote-getting ability of moderate positions. Thus, given a rule that affords them the luxury of amending legislation, such members are not likely to pass up the opportunity to make their most-preferred position the law of the land. At the very least, outcomes under such circumstances will be very close to the floor median position.

The second question is whether, similarly, CM will be offered in committee. Since there is no explicit open rule in committees, the convergence to the median would appear less certain, at least upon first reflection. Committee chairmen whose ideal points are far from CM may be inclined to refuse to recognize motions from median members, in which case bills in their final marked-up state (if the mark-up occurs) may not resemble CM. However plausible such a scenario might seem in Congresses dominated by autocratic committee chairmen, such as several Southerners during the '50s and early '60s, it is much less realistic in the aftermath of reforms of the '70s. A number of studies have suggested that today's committee backbenchers are no longer beholden to autocratic chairmen. Price for example, writes

. . . this autonomy [of committee chairmen], to be sure, is not what it once was. Recent congressional history contains numerous examples of leaders who were deposed and prospective leaders who were denied their slots because they were judged hostile to the interests of a caucus or committee majority (1981, p.172).

And Oppenheimer argues that

. . . committee chairs can no longer arbitrarily delay legislation that is central to the leadership's legislative program unless they have substantive support from their committee members (1980, p.8)

Thus the blocking of popular bills, which by definition CM is, seems increasingly improbable, and the case for expecting median outcomes in committees, too, is strengthened.

But there is a final objection to the committee median outcomes as described above -- one that is more persuasive in at least some contemporary congressional settings. Whereas the earlier discussion about amendments on the floor addressed the question of whether actors possessed the minimal sophistication required merely to offer a clearly popular amendment, this one questions whether they aren't perhaps still more sophisticated. Specifically, consider more carefully the situation of committee members in Figure 1. We know that the final outcome under the assumption of sincere voting is FM. If committee members are similarly knowledgeable, will they not modify their behavior? Can they not do better than FM? The answer is yes; they can do better by doing nothing, that is, by refusing to report any legislation to the floor. This, of course, leaves intact the status quo point, which a majority of committee members prefers to the sincere outcome, FM.

For a committee to successfully obstruct in this fashion requires actors of greater sophistication than those discussed above. Minimally, committee members must know something about the preferences of members on the floor. Furthermore, given information about preferences in the parent chamber, they must be able to predict what will happen to their legislation if it is reported to the floor under an open rule. Finally, given the information and subsequent prediction, they merely need to compare the predicted outcome with the outcome they collectively can guarantee, namely, the status quo. In effect, these conditions ensure that astute committee members can detect situations that are in some sense "ripe" for obstruction, moreover, obstruction that yields a majority on the committee an outcome preferable to the otherwise expected FM.

Such situations can be defined precisely with tools already in the theory. First, we define a ripe situation under the open rule, as one in which the committee median voter (cm) prefers the status quo (S) to the ideal point of the floor median voter (FM). Formally, we say

A situation is ripe for obstruction if and only if

1. the open (germaneness) rule is in effect, and
2. $S \succ_{cm} FM$.

If preference curves are symmetric as well as single-peaked, then ripe situations are all of those, and only those, in which S is geometrically closer to CM than is FM. Figure 2 shows one ripe and

one nonripe situation. Notice in Figure 1 and Figure 2a that in ripe situations, obstruction yields an outcome that a majority on the committee prefers to FM, the predicted outcome under the open rule if a bill is reported.⁵ In contrast, obstruction in nonripe situations, such as in Figure 2b, makes a committee majority worse off than referral and convergence to the floor median.

The definition of ripeness for obstruction enables us to define an alternative behavioral assumption to sincere voting, namely, committee sophistication under the open rule.

A committee is sophisticated under the open rule if and only if whenever the situation is ripe for obstruction, its members refuse to report a bill.

The possibility of the occurrence of sophisticated obstruction by a committee, of course, could not exist without the jurisdictional system which confers to the committee the exclusive right to make decisions in a given policy area. Committee sophistication is therefore a distinctly institutionally-bestowed strategic possibility, as are many of the strategies we observe in Congress.

Given two possible assumptions -- sincere voting or committee sophistication -- which one is more appropriate? Few if any propositions about congressional committees have been more frequently cited or more widely endorsed than Fenno's (1973) admonition that committees differ. It seems only reasonable that one dimension on which they differ is the level of sophistication their members

exhibit, and that one indicator of such sophistication is the degree to which committee members are attentive to the preferences of their colleagues in the parent chamber. Fenno writes, for example, that "the Interior Committee . . . worries about these problems and incorporates a good deal of sensitivity to the House into its strategic thinking. By comparison, Education and Labor does not" (p.78). Thus, in the context of obstruction, we can assume that some committees exhibit foresight; their members are cognizant of ripe situations and act in the interests of a majority on the committee by obstructing. But other committees, whose members tend to be less experienced at gauging preferences of noncommittee members or less inclined reach the collective decision to obstruct, are better modeled by the assumption of sincere voting. In short, the question -- Which assumption is more appropriate? -- is improperly stated. Each is appropriate in some congressional settings, and only by studying comparatively the outcomes under the two contrasting assumptions can assessments of the quality of obstructed versus nonobstructed outcomes be meaningful. Thus, the "So what?" question. Is obstruction good or bad, and good or bad in what sense? Clearly, if we are to assess the merits or demerits of obstruction, we need to know more precisely what a good outcome is. That is, we need to select and define a dependent variable that possesses some normatively attractive properties.

REPRESENTATIVENESS

Congress is usually considered a representative decisionmaking institution, therefore a natural question for anyone interested in

assessing its performance is: How representative are congressional outcomes? Specifically, how well do congressional decisions reflect the preferences of congressmen? An operational definition of representativeness will be given shortly, but first it is useful to emphasize the narrowness of representativeness, relative to the related concept of representation. Stated in terms of Congress and the ingredients of the theory presented above, representation refers to the degree to which the preferences of members of Congress reflect the preferences of their constituents and, similarly, the degree to which the actions or strategies of congressmen reflect their constituents' preferences. Representation, then, is an attribute of congressmen's preferences and strategies. Representativeness, in contrast, is an attribute of congressional outcomes.

A more precise definition of representativeness is acquired by exploiting the spatial characteristics of the theory of decentralized decisionmaking in SIAs. The initial question is: given a configuration of preferences representable as points on a policy dimension, which outcome in the set of all possible outcomes within a jurisdiction can best be defended as representative? Our knowledge of Congress as a fundamentally democratic institution suggests that two criteria are reasonable, indeed essential, for determining the location such a point, on which the measure of representativeness will be based.

Egalitarianism. All members' ideal points should be considered and should be weighted equally in the computation of the representative point.

Positive Responsiveness. The representative point should respond positively to any change in any member's ideal point.

The egalitarianism criterion ensures that all members' preferences count and that no member's preference counts more than that of anyone else. The criterion of positive responsiveness ensures that if any single member's ideal point changes, the representative point must change also, moreover, it must change in the same direction as the individual's ideal point. For example, imagine two consecutive Congresses, the latter of which is identical to the former except that one Democrat has been replaced by a more conservative Republican. If all nonfreshmen legislators' preferences are static, then a positive response of the representative point to the single instance of turnover must occur and must be in a conservative direction.

We label the representative point P^* , since once defined it is a summary of individual ideal points, p_i^* , such as those shown on Figure 1. Natural candidates for P^* are summary statistics of the array of preferences. The median has an attractive tendency to be centrally located, and additionally is the predictive outcome under the assumption of sincere voting. But predictability bears no necessary relationship to representativeness, so this feature shall not influence our choice. Confining our attention to the criteria for P^* ,

we see that the median does not meet the condition of positive responsiveness, since it is quite possible for ideal preference points to change without the median changing in response. The mean, however, does not possess this drawback. Moreover, if unweighted, it also meets the criterion of egalitarianism. We therefore define the optimally representative point, P^* , for M members as follows:

$$P^* = 1/M \sum_{i=1}^M P_i^* \quad (1)$$

The numerical definition of representativeness now follows in two simple steps. First, define the loss of representativeness, L , as the distance between P^* and the actual outcome, O :

$$L = |P^* - O| \quad (2)$$

Now define representativeness of the outcome, R , as the maximum possible loss minus the actual loss, where the maximum loss equals the distance from the highest to lowest points on the jurisdiction:

$$R = L_{\max} - L \quad (3)$$

The proposed measure of representativeness not only satisfies the democratically appealing criteria of egalitarianism and positive responsiveness but also makes it possible to assess precisely the

effect of obstruction on the quality of outcomes.

ESTIMATION

We employ a simulation technique to perform three tasks: generation of congressionally realistic preferences and status quo points, simulation of outcomes (based on the two different assumptions of committee strategy), and assessment of the outcomes in terms of representativeness. The first task is perhaps most difficult, but previous empirical work provides some guidance. We know not only of the existence of parties in Congress, but also of the tendency of their members to have preferences that differ systematically. The patterns show up clearly in scores given to congressmen by various interest groups. COPE scores, for example, when broken down by party, indicate that distributions are unimodal and skewed for each party, but with party modes on opposite sides of the distribution. The distributions shown in Figure 3, as well as all others examined, approximate a gamma distribution, from which, accordingly, the simulation program randomly selects individual preferences. The arbitrary boundaries of the policy dimension in the program are 0 and 10; the means for the two parties are set at 3.0 and 7.0; and the standard deviations are fixed at 2.0.⁶

For reasons of computational efficiency and clarity of presentation of later examples, the size of the legislature is set at seven.⁷ The partisan balance of the simulated legislature is then fixed in accordance with the contemporary Congress. As of this writing, 61 percent of the House is Democratic. Thus if we allow four

members (57 percent) to be majority party members, we are reasonably close to the composition of the House. Of the three committee members, two will be from the majority party. In sum, the composition is:

L L R | L L R R

where "L" denotes a member from the party whose distribution is skewed to the left, "R" is a member from the right-skewed party, and members to the left of the vertical bar belong to the focal committee.⁸ The final task is to specify the selection of the status quo point. This parameter setting, unlike previous ones, is problematic since sensitivity tests showed that status quo points drawn from different distributions sometimes create different patterns of representativeness in different institutional arrangements. The primary criterion for selecting status quo parameters must, of course, be theoretical sensibility. If one accepts the assumption that past Congresses are at least somewhat successful at producing outcomes that reflect members' preferences, then the status quo point should not be completely random, but rather should be linked to such preferences in a somewhat, but not entirely, predictable manner. Lacking empirical guidance as to the proper functional form, I use a normal distribution whose expected value is the mean of the ideal points of congressmen. Specifically, the status quo point is:

$$S = \bar{P} + \varepsilon,$$

where ε is a normally distributed stochastic disturbance with $\mu_{\varepsilon} = 0$ and σ_{ε} yet unspecified. Substantively, the random component of the equation reflects exogenous factors such as turnover, war, and economic conditions (each of which may cause changes in preferences) as well as the inability of the past Congresses to make decisions that reflect the preferences of members. Sensitivity tests showed the size of the variance of the stochastic component also affects the results in some situations. Therefore two samples will be examined; in Sample I σ_{ε} is small (0.5), and in Sample II it is large (1.5). Of course, it would be advantageous if real-world studies of representativeness informed these estimates. Until such studies exist, however, there is no choice but to begin with values believed to be reasonable a priori.

For each of the two samples, 1000 decisionmaking situations were generated,⁹ where a "situation" is defined as a configuration of randomly drawn preferences and a status quo point. For each situation, two outcomes were simulated — one, O_{sv} , under the assumption of sincere voting by committee members, and one, O_{cs} , under the assumption of committee sophistication (i.e., obstruction in ripe situations). This research design not only gives a clear answer to the question "What if committee members had behaved differently?" but also ensures that differences in the average estimates for the competing behavioral assumptions are indeed attributable to the assumptions, and not to different samples.

RESULTS

The primary objective is to estimate and to better understand the probable effect of obstruction on representativeness. Thus, the independent variable in the analysis is committee sophistication, which, in open rule settings, is synonymous with obstruction whenever the situation is ripe. The dependent variable is the representativeness of the outcome, as measured by equation (3). The simulation program is constructed to test the null hypothesis that obstruction by committees produces unrepresentative outcomes.

Recall first the theoretical result that the open rule ensures a floor median outcome ($0 = FM$) whenever the committee reports a bill, indeed any bill, to the floor. Therefore, the only situations in which the representativeness of outcomes may differ under the two behavioral assumptions is when the sophisticated committee obstructs, that is, in ripe situations. Thus an initial concern is how frequently ripe situations occur. Indeed, they are common in both samples. In Sample I, 303 (30.3 percent) of the 1000 situations were ripe; in Sample II, 251 (25.1 percent) percent were ripe.

Whereas ripe situations are probably not rare, we next explore the qualitative implications of ripeness and, more specifically, of the obstruction that occurs in ripe situations if committees are sophisticated. The first evidence comes from the mean estimates of representativeness in ripe situations, as presented in Table 1. In both samples, the average representativeness of outcomes is quite high, irrespective of the behavioral assumptions. Even the lowest estimate

of representativeness -- the obstructed outcomes in Sample II -- fall within one unit of the representative point, on average. Thus, to the degree that the assumptions of the simulation are congressionally realistic, Congress does a good job at yielding outcomes that reflect configurations of its members preferences.¹⁰

But the generally high absolute values of average representativeness mask several interesting and sometimes surprising results. First, obstruction often results in outcomes that are more representative than those which would have occurred through the open amendment process. This is especially the case in the first of the two samples, where not only are 63 percent of obstructions beneficial to representativeness but also the overall estimate of representativeness in committee-sophisticated settings is .19 units greater than under the assumption of sincere committee behavior. The comparable difference in Sample II reverses, but even then the obstructed outcome is superior in over one-third of the situations. Thus even though the value of the status quo parameter affects the ratio of good to bad obstructions, the frequent existence of highly representative outcomes from obstruction is not merely an artifact of the parameter value. In short, obstruction is often good, and we therefore have a preliminary basis for rejecting the null hypothesis.

To obtain a better idea of how many outcomes were better or worse under the assumption of committee-sophisticated obstruction, and by how much, Figure 4 shows the difference in representativeness, $R_{cs} - R_{sv}$, for each ripe case in each sample. A positive value means

the outcome under sincere voting is better; a negative value means the outcome under committee sophistication is better. Dark bars represent observations from Sample I, and light bars represent Sample II. These data are of course consistent with the numerical data in Table 1; Sample I cases tend to fall to the left of the dotted line while Sample II cases more frequently lie to the right. But the figure also provides information not discernible from the overall averages. First, there are several instances in which the difference in the representativeness of outcomes varies quite greatly from one behavioral assumption to the other. Both tails of the distribution show several absolute values of greater than one unit. Thus while the average difference in representativeness under the two assumptions suggests that obstruction may be inconsequential in general, there are nevertheless many specific cases in which its occurrence substantially changes the level of representativeness. Moreover, even in the Sample I, in which the performance of the nonobstructive committee tends to be better, there are many instances in which the difference in representativeness is negative. So even in those settings in which myopic committee behavior tends to increase representativeness, the favorable consequences of such behavior are by no means sure bets.

It remains to be seen, however, whether the simulated situations that produce these results are realistic, given our day-to-day knowledge of Congress. To help make such a judgment, Figure 5a shows the first (and typical) case of several randomly drawn and closely inspected situations. Solid dots again denote ideal points of

committee members, of whom there are three, and hollow dots represent noncommittee members' ideal points. The party affiliation of the members (L or R) is given below the appropriate dots and above the units of the policy scale.

The distribution of preferences seems realistic. L-party members indeed tend have ideal points on the left of the scale (with one exception -- a Southern Democrat perhaps), and R-party members are more tightly clustered on the right. The situation is clearly ripe for obstruction since $|CM-S| < |CM-FM|$, which implies that the committee median voter prefers the status quo to the ideal point of the floor median voter. Thus the sophisticated committee obstructs and $O_{CS} = S$. Although the situation is identical for the committee whose members vote sincerely, that committee reports legislation that is amended to FM, hence $O_{SV} = FM$. But this outcome is quite far from P^* . (The line segments, L, from P^* to 0 reflect the loss in representativeness, as defined in equation (2).) In contrast, the obstructed outcome, $O_{CS} = S$, is considerably closer to P^* than is O_{SV} . The difference in representativeness, therefore, is a substantial -1.29.

Although nothing about this example seems implausible, we need not rely exclusively on impressionistic judgments of abstract cases in order to argue that simulated situations approximate those in congressional politics. Well before this simulation was run, an account of the House's action on the 1983 Justice Department Authorization Bill (S 951) was given in Congressional Quarterly Weekly Report.¹¹ The Senate, in passing its bill, had included a

controversial amendment to virtually end court-ordered busing for the purpose of achieving racial balance in schools. The bill then went to Congressman Peter Rodino's Judiciary Committee in the House. Figure 5b shows a priori estimates of the relevant points in this situation: the preferences, bill, and status quo point. The policy dimension is simply that of the most salient feature of the legislation (according to CQ). To the left of the scale is completely forced busing, in the extreme, say, for all schools irrespective of any special circumstances. On the far right is no busing for racial purposes under any circumstances, court-ordered or otherwise. In a real legislature, as in the simulated one, these extreme positions are not likely to be taken by many members, but in any case the more important median points are more centrally located. The Judiciary Committee, which is relatively liberal, has a median position towards the left side of the scale, with the status quo position to its right but still left of center. The floor median position is farther to the right, since turnover in the House following the 1980 election made its members somewhat more conservative in general, and since busing in particular was probably declining in popularity at the time. This certainly is the case if the Senate's bill is any guide, and accordingly, it is also placed on the right side of the scale.

The theory in its present state has no provisions for bicameralism, but in this instance the location of the Senate's bill is unimportant. The striking point is the similarity between the simulated situation in Figure 5a and the actual one in Figure 5b. As

the theory predicts, so did Rodino's committee act. It killed the bill.

The omission in the example is the House's P^* . The reason for its exclusion is simply the inability of presently available techniques to measure preferences on such specific issues. But in spite of this methodological limitation, it is probable that in this example, or in others like it of which there surely are many, the true P^* is skewed well towards the CM side of the FM position. So long as this is the case sometimes -- whether or not it was the case with respect to the authorization legislation in question -- we can be certain that events in which obstruction aids representativeness do occur. The simulation model gives us an idea of how often such situations arise, and under its assumptions the frequency is significant. But more importantly, the technique and underlying theory reveal how and why these nonobvious events occur.

Although the focus of the analysis thus far has been on the nonobvious events, it of course does not follow that obstruction is indisputably good and ought to be encouraged without qualification. That is, even though we can comfortably reject the null hypothesis, we ought not perfunctorily accept its natural alternative that obstruction consistently leads to representative outcomes. To the contrary, it bears repeating that the simulation model also generates many situations in which obstruction has more intuitive, negative consequences. Figure 5c shows how obstruction can also preclude what otherwise would have been healthy convergence to a more representative

floor median point. Here the committee's obstruction, as always, keeps the status quo in effect, but the status quo point is very far from P^* . The outcome under sincere referral, in contrast, is near P^* , and therefore R_{SV} is much greater than R_{CS} .

EXTENSIONS AND IMPLICATIONS

To begin to understand the implications of these findings for institutional design in general, and for congressional reform in particular, it should be emphasized that the key driving force in the theory is individual behavior, even though such behavior manifests itself in committee-characterizable ways. Just as individuals differ, so too do their strategies. Furthermore, various institutional features in Congress, such as the committee assignment process, tend to bring together members with relatively high or low levels of strategic capabilities. Thus members of some committees are naturally more inclined than others to coordinate their individual strategies and to exercise committee-sophisticated strategies. Reformers would be hard pressed to change these inclinations, even if the findings were sufficiently conclusive to suggest, for example, that obstructive behavior always ought to be suppressed. But we now know, that the problem is not that simple. Sometimes obstruction is indeed offensive, even according to an objective criterion such as representativeness. But more often it appears to be innocuous or even favorable in terms of the representativeness of outcomes. So the reformers' puzzle ought not be how to ban obstruction, but rather how to circumvent only the most unrepresentative obstructions. In this

section we shall see how two informal extensions of the model -- one institutional and one strategic -- not only address this reformulated puzzle, but also provide for a more realistic depiction of Congress as we know it.

The discharge petition. The U.S. House of Representatives has had since 1910 an institutional mechanism that seeks to solve the restated puzzle. The discharge petition provides that if a bill has been before a standing committee for at least 30 days, a congressman can introduce a motion to force it out of the committee. The House clerk then prepares a petition, which, if signed by 218 members of the House within a specified time, places the measure on a special Discharge Calendar. After seven days, any member who signed the petition may be recognized to offer a discharge motion. If the motion passes, any member who signed the petition can force immediate consideration of the bill. If the motion fails, the bill can no longer be considered during that session.¹² We can therefore view the discharge petition as not only a mechanism for overcoming obstruction, but also as a decentralizing institutional feature in the sense that it provides opportunities for all members to act on otherwise obstructed and hence untouchable legislation. Thus, unlike noncommittee members in our simple model, members of Congress who are willing to expend the time and effort may resurrect legislation which in the model was dead.

By any obvious measure of success, the discharge petition historically has been unsuccessful. Although 909 petitions have been

filed since 1910, only 26 bills have actually been discharged, 20 of which ultimately passed. More recently, since 1973 only one bill has been discharged, and it did not pass.¹³ While this information raises doubts about the importance of this particular institutional feature, and especially about the part it plays in the post-reform Congress, we should not ignore the discharge petition on the basis of empirical data without first inspecting it theoretically. Specifically, answers to three questions may yield a broader generalization about institutional design. They are: When is the petition most likely to be used? What are its probable effects on representativeness in those situations? And what might be its effect apart from its use?

Theoretically guided, educated assumptions lead us to an answer to the first question. We know of course that discharge attempts will occur only when there is something to discharge, that is, in terms of our theory, when a bill is obstructed by a sophisticated committee. From the definition of ripeness for obstruction, we know further that the committee median voter prefers S to FM, as in Figure 6a, for example.¹⁴ To answer the question of which such situations are most likely to result in successful discharge attempts, we need to know where other members are located on the policy dimension. Consider two extreme cases. In Figure 6b, most members to the right of FM are barely to its right, while members to its left are well to its left and for the most part satisfied with existing policy (S). Although discharge, theoretically, would be successful in such a situation since a majority does indeed prefer the outcome under successful

discharge ($O_d = FM$) to the obstructed outcome ($O_{cs} = S$), it seems unlikely that so many members with so little to gain will go to the trouble of mounting a campaign against the committee. Deference to committees, while perhaps declining since the reforms of the '70s, still exists to some degree.

In contrast, a discharge attempt is much more likely in Figure 6c, where many members who dislike S dislike it very much, so their ideal points lie on the extreme right of the scale. The critical difference in the two situations is easy to visualize and summarize. Not merely the number of members who oppose the status quo, but more importantly the degree to which they oppose the status quo (as reflected here by distance), is likely to determine whether a discharge campaign will be mounted.

If this reasoning is correct, then what can be said about discharge and representativeness? Figure 6 provides a clear answer to this question also. The representative point was defined to be sensitive to changes in any and all members' preferences. Therefore, in the examples in Figure 6, the location of P^* varies. In 6c where preferences of disillusioned noncommittee members are extreme, P^* is much farther to the right than it is in 6b where noncommittee members' disillusionment is less severe. For precisely this reason, the gain in representativeness from a successful discharge is positive and large (1.00) in 6c, in contrast to the moderate negative gain in 6b where discharge is improbable. In summary, the examples in Figure 6 vividly suggest that when discharge is most likely to occur, it is

also likely to improve the representativeness of outcomes. Thus the institutional extension of the original model -- provision for discharge -- further reduces the plausibility of the null hypothesis.

Enhanced committee sophistication. Subsequent to the conjecture that discharge, while rare, is probably good is the additional possibility that the discharge petition has effects even when it is not used. The possibility is demonstrated by expanding the definition of committee sophistication to include committee members' greater awareness of, and willingness to act on, preferences of noncommittee members. Recall that obstructive committees are sophisticated. According to the simple model, this merely requires that they know the ideal point of the floor median voter. If, however, we assume that their sophistication is slightly greater -- namely, that they are also attuned to the preferences of other floor members as well -- then they also are able to detect situations in which discharge is likely and hence in which their inclination to obstruct is risky. Fortunately, there is at least some evidence that the line of reasoning advanced here at a theoretical level has an empirical basis. Jewell and Patterson write that

The discharge procedure, particularly in the House, has a utility that is not measurable in the number of discharged bills, however. When the signatures on a discharge petition begin to approach a majority, a committee may decide to jump before it is pushed, and report the desired bill to the House. In 1960 and again in 1963, a campaign for signatures helped to persuade Chairman Smith of the Rules Committee to hold hearings on civil rights bills that had been stalled in his committee (1966, p.261; see also Gross, 1953, pp.331-2).

Thus, in practice, sophisticated committees do not always obstruct. Moreover, when they decline this strategic opportunity in ripe situations, the reason probably is that they have a sense of the preferences of noncommittee members other than the median voter. When discharge petitions are circulating, preferences of signing members are generally easy to discern. But even in the absence of such floor activity, the most attentive committee members are probably adept at estimating the location of P^* . If so, then their deviations from their tendency to obstruct legislation in ripe situations is likely to result in more representative outcomes.

CONCLUSION

Although much of the preceding discussion has relied more on argument than on systematically collected data, joint consideration of the argument, the simulation results, and a few genuine congressional cases, continues to reduce our suspicions about obstruction by standing committees. Similarly, the null hypothesis that obstruction undermines the representativeness of outcomes seems less and less attractive. Caution dictates that we stop short of rejecting reformist sentiments that some decentralization is good, but we reiterate that these results indicate that the gains from decentralization are minimal and often indirect. As members of Congress are increasingly attentive, indeed reactive, to costs associated with decentralizing reforms, it should not surprise us to observe a recentralizing trend in Congress (Vogler, 1981; Plattner,

1983a, 1983b). More surprising, however, is the genuine possibility that recentralization will result in more representative outcomes.

Finally, it appears quite possible, if not likely, that for a large class of democratic institutions, minimally decentralizing institutional features confer to ordinary members opportunities for correcting the excesses of sophisticated behavior by an institutionally advantaged few. Perhaps more often than we realize, the mere existence of such features prevents the most offensive exercises of centralized sophistication, such as obstruction. In most of the remaining instances, obstruction is no necessary enemy of representativeness, and, more generally, monitored centralization is no necessary enemy of good outcomes. In our continued attempts to study the qualitative consequences of various institutional arrangements, our challenge is to bring better evidence to bear on such suppositions. This research demonstrates that an approach that emphasizes formal models of key institutional features offers some preliminary insights, and that simulation is a useful technique for seeking tentative confirmation or rejection of hypotheses. I hasten to add, however, that ultimately, verification of such insights via the collection and analysis of "real" congressional data remains a high priority.

FOOTNOTES

1. The definitions that follow are, with minor exceptions, verbal. Formal definitions and theoretical results can be found in Shepsle (1979), Krehbiel (1983) and Denzau and Mackay (1983), although formalizations and assumptions differ somewhat in the various works.
2. For purposes of clarity in exposition, the number of legislators is assumed to be odd.
3. Specifically, clause 7 of Rule XVI of the House, "On Motions, Their Precedence, etc." states that ". . . no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." See Romer and Rosenthal (1978), Krehbiel (1983) and Denzau and Mackay (1983) for similar theories in closed rule settings.
4. A number of terms for this form of voting are synonymous in social choice theory; sincere, straightforward, myopic, and naive are the most common.
5. The strategy of committee members is not affected by their expectations regarding sophistication of members on the floor. A theorem by McKelvey and Niemi (1978) states that if a Condorcet winner exists, then sophisticated behavior ensures its selection. Since FM is a Condorcet winner (Black, 1958), the committee expects the floor outcome to be FM under either of these

behavioral assumptions. See Denzau and Mackay (1983) for a discussion of committee decision making under uncertainty in a nearly identical institutional setting.

6. In each case, these parameter values are straightforward linear transformations of the COPE scores. Furthermore, sensitivity testing indicates that such values can be changed substantially without affecting the results. See Krehbiel (1983), chapter 4.
7. Sensitivity testing using a variety of committee sizes, total membership, and ratios of committee to total membership also indicates that the simulation model is robust.
8. Although the analysis is of one unidimensional situation at a time, the formal properties of SIAs are such that the results are generalizable to N committees, N jurisdictions, and an N-dimensional policy space.
9. The computer program is written in SIMULA, an Algol-based programming language, and executed on a DEC-10 computer.
10. Although one unit on the scale of representativeness may seem quite small, the theoretical minimum of representativeness, 0, is empirically absurd, since this would require that all members would have preferences on one extreme end of the scale while the outcome is on the other extreme end. Of the several thousand simulations run during sensitivity testing and for the analysis reported here, (including many institutional arrangements that

tend to be less representative than those operating under the open rule), R was never under 6.0. In these samples, it is always above 7.0.

11. See "97th Congress: Shorter Session, Fewer Laws," Congressional Quarterly Weekly Report, October 16, 1982, p. 2688.
12. See Oleszek (1978) pp. 96-7.
13. See Congressional Quarterly's Guide to Congress, (3rd edition) pp. 425-6.
14. The status quo point, S, could be to the left of CM, or, of course, the entire configuration could be flipped over from right to left, but neither of these possibilities affects the argument.

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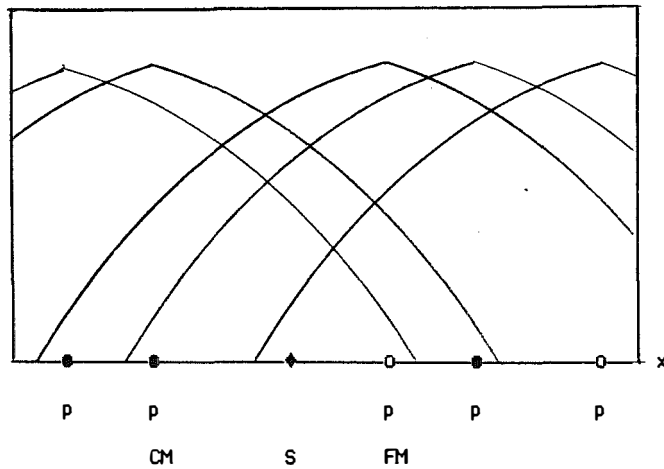
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Figure 1

Single-peaked, Symmetric Preferences
and Predicted Outcomes

$U_i(x)$ =
value to
i of an
policy, x



Sincere
Voting: Bill -----> Outcome

Committee
Sophistication: (no bill) Outcome

Figure 2
Ripe and Nonripe Situations

a. Ripe

$$|CM - S| > |CM - FM|$$

$$(S >_{cm} FM)$$



b. Nonripe

$$|CM - S| < |CM - FM|$$

$$\sim (S >_{cm} FM)$$

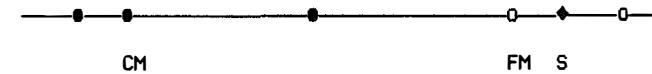


Figure 3

Distributions of 1979 COPE Scores by Party

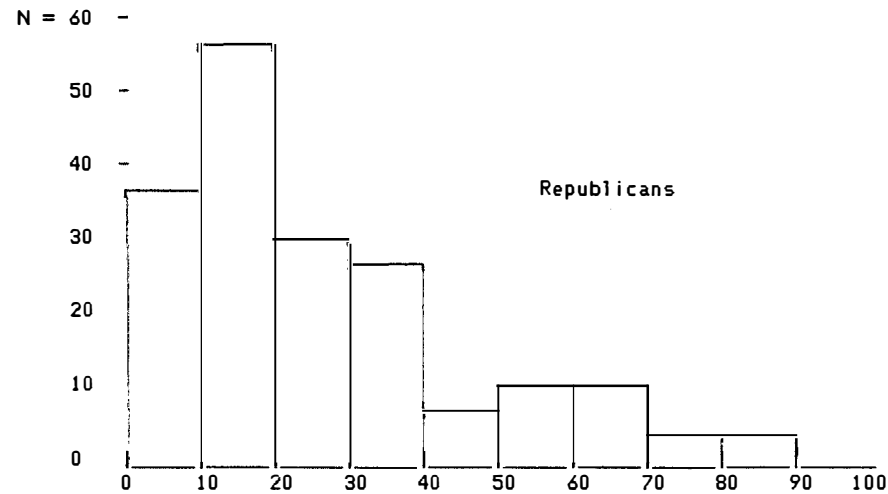
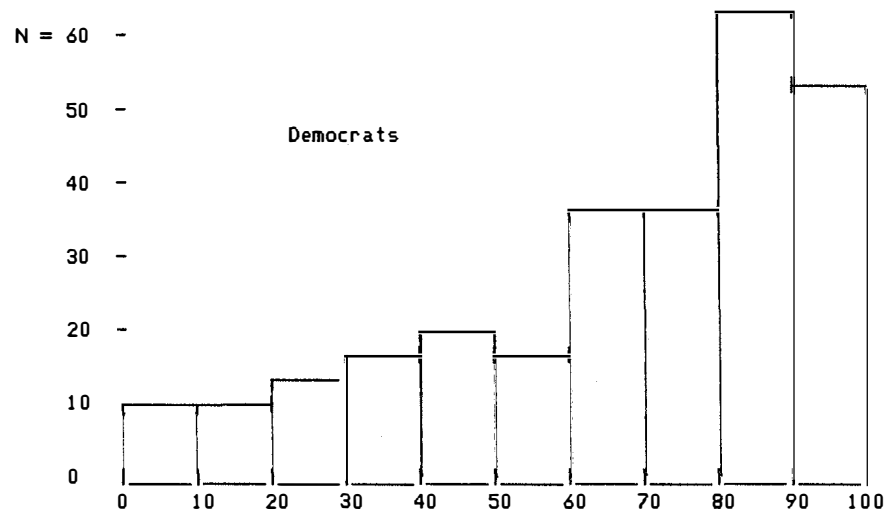


Table 1

Representativeness in Situations
Ripe for Obstruction

Sample	N Ripe	Averages:			Ns and Pcts:	
		R_{SV}	R_{CS}	$R_{SV} - R_{CS}$	$R_{SV} > R_{CS}$	$R_{CS} > R_{SV}$
I	303	9.41	9.60	-.19	113 (37)	190 (63)
II	251	9.40	9.01	.39	164 (65)	87 (35)

R_{SV} = average representativeness under sincere voting

R_{CS} = average representativeness under committee sophistication

Figure 4

Differences in Representativeness
under Referral (sv) and Obstruction (cs)

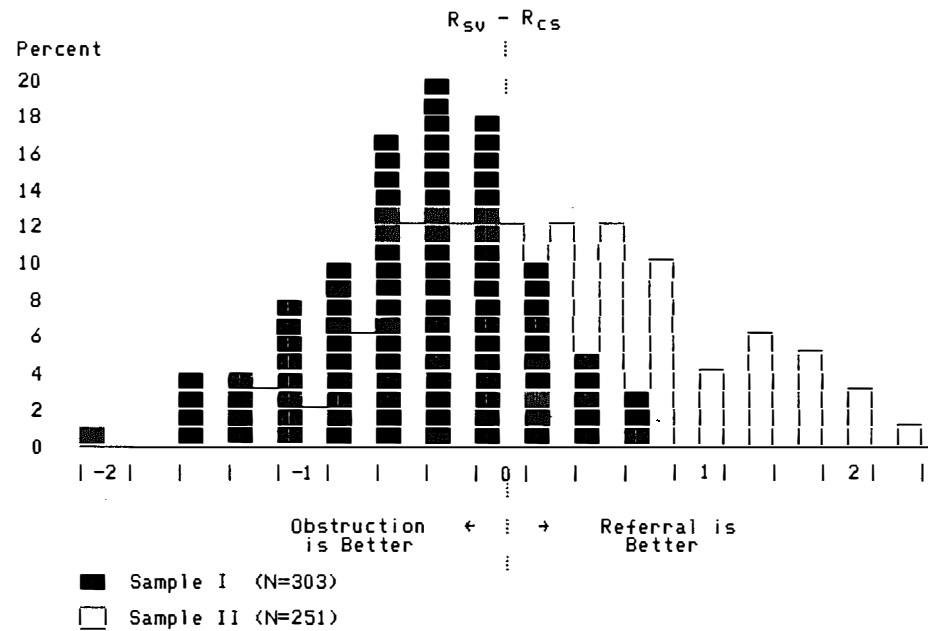
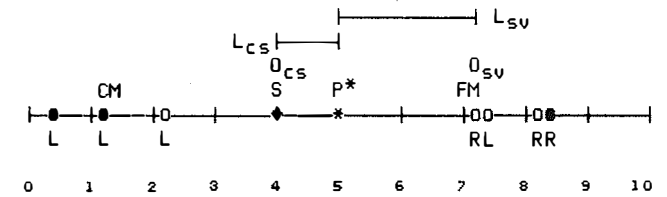


Figure 5

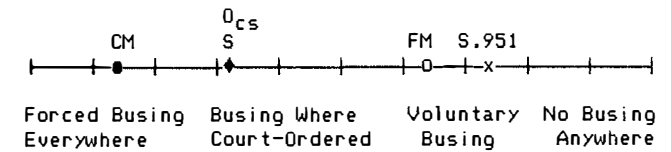
Examples of Obstruction and Representativeness

a. Obstruction is Representative

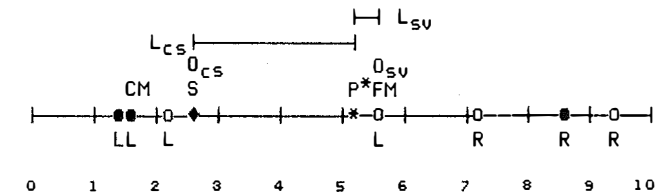


$R_{sv} = 7.77$ $R_{cs} = 9.06$ $R_{sv} - R_{cs} = -1.29$
Sample I, case 361

b. House Judiciary Committee
and Senate's Authorization Bill



c. Obstruction is Not Representative

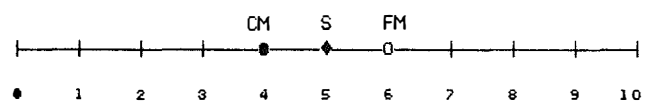


$R_{sv} = 9.49$ $R_{cs} = 7.31$ $R_{sv} - R_{cs} = 2.18$
Sample II, case 876

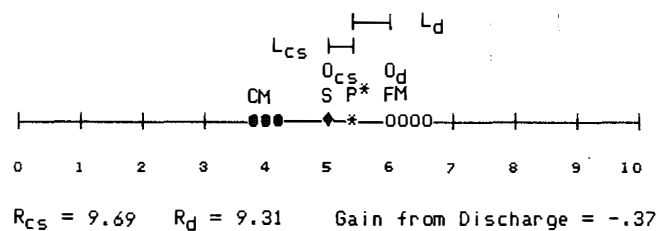
Figure 6

Conjectures on the Probability
and Representativeness of Successful Discharge

a. Typical Situation of Ripeness for Obstruction



b. Low Probability of Discharge



c. High Probability of Discharge

